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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,613	04/06/2000	Jean-Claude Jammet	ATOCH-172	9063

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
2200 CLARENDON BLVD.  
SUITE 1400  
ARLINGTON, VA 22201

EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 03/10/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-14

**Office Action Summary**

Application No.

09/544,613

Applicant(s)

JAMMET ET AL.

Examiner

Jane J Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 December 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 10-15, 17-22 are rejected under 35 U.S.C. 102(b) as being unpatentable by Nagano et al. (0035392).

Nagano et al. discloses a polymer (A) comprising a blend of polyethylene (page 4 lines 5-12) with a density of 0.88 to 0.98g/cm<sup>3</sup> (page 4 line 11-12) being grafted with an unsaturated carboxylic acid in which the content is between 0.01 to 10% (page 4 line 22-24). Nagano et al. discloses a polyethylene (B) with a density of 0.86 to 0.96g/cm<sup>3</sup> (page 4 line 18). Nagano et al. discloses that the comonomer of A1 is the same as that of B, which is the polyethylene, described above (page 4 lines 5-19). Nagano et al. discloses that the binder comprises an ethylene content of not less than 80 mole% (page 4 line 20-21) and has an  $MFI_2/[\eta]^{-8.77}$  ratio greater than 15 in absolute value (page 4 line 10-11). Nagano et al. discloses the  $MFI_{10}/MFI_2$  ratio being between 5 to 18 (page 4 line 27). Nagano et al. discloses a multilayer structure comprising a layer comprising the binder of described above directly attached to the latter a layer of nitrogen-containing or oxygen-containing polar resin or a metal layer (page 12 lines 20-24). Nagano et al. discloses a rigid hollow body (page 17 line 21). Nagano et al. discloses a

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gasoline tank (page 16 line 13). Nagano et al. discloses that the layer of nitrogen containing or oxygen containing polar resin is a saponified ethylene-vinyl acetate copolymer (page 12 lines 25-34). Since Nagano et al. discloses the same layers desired by the applicant with the same density and MFI ratio it is inherent that the MFI is between 0.1 and 3g/10min.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Nagano et al. in view of Adur et al. (4460745).

Nagano et al. discloses a multilayer structure comprising the binder described above with a layer of nitrogen-containing or oxygen-containing polar resin directly attached (page 12 lines 20-24). Nagano et al. discloses that the structure comprises an HDPE layer as the first layer, then a polar resin layer as the second layer and a HDPE layer (page 14 line 9-10). Nagano et al. discloses that the polar resins can be polyamide resins, saponified copolymer of ethylene and vinyl acetate, and polyesters (page 12 lines 25-27). Nagano et al. fail to disclose a layer of EVOH as the polar resin layer. Adur et al. teaches that the polar substrates which can be used with adhesive blends are nylons and other polyamides, ethylene vinyl alcohol copolymers, EVA (col. 2

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line22), polyesters, polyvinyl alcohol, polyurethanes, polyureas, and other carbonyl-containing polymers, metal, glass, paper, wood and the like (col. 1 lines 56-62). Adur et al. teaches that it is well known in the art to use composites such as EVOH to adhesive blends because the adhesive blends provides excellent adhesive strength to polar resin layers like EVOH (col. 1 lines 56-59). Therefore, it would have been obvious to one of ordinary skill in the art to have provided Nagano et al. with a layer of EVOH as the polar resin layer blends because the adhesive blends provides excellent adhesive strength to polar resin layers like EVOH (col. 1 lines 56-59) as taught by Adur et al.

### ***Response to Arguments***

3. Applicant's arguments filed 12/9/02 have been fully considered but they are not persuasive.

In response to applicant's argument that Nagano et al. does not teach the grafting of A(1) and A(2), Nagano et al. discloses a polymer (A) comprising a blend of polyethylene (page 4 lines 5-12) with a density of 0.88 to 0.98g/cm<sup>3</sup> (page 4 line 11-12) being grafted with an unsaturated carboxylic acid in which the content is between 0.01 to 10% (page 4 line 22-24). Applicant claims a polymer (A) comprising (A1) and (A2) and furthermore a polyethylene (B). Polymer (A) which comprises (A1 and A2) and the polyethylene (B) are all considered to be Nagano et al's (Ai). Since A1, A2, and B all consist of a polyethylene with a relative density of between 0.910-0.940 an ethylene content of not less than 80 mole% and has an  $MFI_2/[\eta]^{8.77}$  ratio greater than 15 in absolute value, A1, A2 and B are considered to be the same polyethylene. Therefore,

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Nagano et al. does teach that A1 and A2 are both grafted because A1 and A2 are considered to be Nagano et al's Ai , and Nagano et al's Ai is a graft modified ethylene (page 4 line 5).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee  
March 6, 2003



HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
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3/6/03